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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/541,358	07/06/2005	Serge Menard	0522-1009	1109
466	7590	01/24/2006	EXAMINER	
YOUNG & THOMPSON 745 SOUTH 23RD STREET 2ND FLOOR ARLINGTON, VA 22202			SOTELO, JESUS D	
			ART UNIT	PAPER NUMBER
			3617	

DATE MAILED: 01/24/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/541,358	MENARD, SERGE	
	Examiner	Art Unit	
	Jesús D. Sotelo	3617	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 11-20 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 11-20 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 06 July 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>7/6/05</u> . | 6) <input type="checkbox"/> Other: ____. |

DETAILED ACTION

1. Claims 11-20 are in the application. Claims 1-10 have been canceled.

Drawings

2. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the arrangement of the doors claimed in claim 14; the reinforcement of claim 17; and the maneuvering means of claim 18; must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Rejections - 35 USC § 112

3. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claims 14 and 16 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention. The arrangement of doors described in claim 14 is not clear; the arrangement described in claim 16 is not clear. The following is a quotation of the second paragraph of 35 U.S.C. 112:

5. Claims 15 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 15, line 2, there is no proper antecedent for “the two articulated parts”.

6. Claim 20 provides for the use of a rescue vessel; but, since the claim does not set forth any steps involved in the method/process, it is unclear what method/process applicant is intending to encompass. A claim is indefinite where it merely recites a use without any active, positive steps delimiting how this use is actually practiced.

Claim 20 is rejected under 35 U.S.C. 101 because the claimed recitation of a use, without setting forth any steps involved in the process, results in an improper definition of a process, i.e.,

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results in a claim which is not a proper process claim under 35 U.S.C. 101. See for example *Ex parte Dunki*, 153 USPQ 678 (Bd.App. 1967) and *Clinical Products, Ltd. v. Brenner*, 255 F. Supp. 131, 149 USPQ 475 (D.D.C. 1966).

Claim Rejections - 35 USC § 103

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claims 11-13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kossa et al (3,934,530).

Kossa et al discloses a vessel including an elongated basin and ballast means 121-124 that make it possible to alter the vessel's draft and wherein the hull includes two lateral hulls 18, 19 that surround the basin and that limits the upper edge of the basin. The ballast means operate between two positions which includes one wherein the basin is evacuated and the upper edge of hulls 18, 19 are above sea level and a full position where the bottom of the basin is below the level of a floating vessel such that the floating vessel can be floated into the basin. Kossa et al teaches that the vessel can have any number of actual proportions but lists some of the dimensions as being around 200 meters long, around 24 meters wide and having a height around 9 meters. The actual dimensions of the vessel are deemed to have been obvious matters of design choice to

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one skilled in the art. Kossa et al also discloses a door 100 that can close the rear of the basin.

9. Claim 17 is rejected under 35 U.S.C. 103(a) as being unpatentable over Kossa et al (3,934,530) in view of Cushing et al (3,823,681).

Cushing et al discloses a vessel similar to that of Kossa et al and teaches providing port and starboard sides that have a height that is lower than that of the sides at the front and rear of the vessel. In view of these disclosures, it would have been obvious to one skilled in the art to provide the vessel of Kossa et al with lateral sides generally as taught by Cushing et al.

10. Claim 18 is rejected under 35 U.S.C. 103(a) as being unpatentable over Kossa et al (3,934,530) in view of Ni (5,988,093).

Ni discloses a vessel similar to that of Kossa et al and teaches providing the same with transverse thrusters 5a. In view of these disclosures, it would have been obvious to one skilled in the art to provide the vessel of Kossa et al with transverse thrusters generally as taught by Ni. The use of transverse thrusters would have been desirable to provide better maneuverability to the vessel.

11. Claim 19 rejected under 35 U.S.C. 103(a) as being unpatentable over Kossa et al (3,934,530) in view of Burnett (3,133,518).

Burnett discloses a vessel similar to that of Kossa et al and teaches using the same for receiving the same by sending the vessel to the location where the vessel needs to be recovered; ballasting the vessel such that the bottom of the basin is below the keel of the vessel to be rescued; introducing the vessel into the basin; and removing the ballast such

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that the upper edge of the basin is above sea level. In view of these disclosures, it would have been obvious to one skilled in the art to use the vessel of Kossa et al for recovering a vessel generally as taught by Burnett.

12. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jesús D. Sotelo whose telephone number is 571-272-6686. The examiner can normally be reached on Mon. – Fri. 5:30 AM – 2:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mr. Samuel J. Morano can be reached on 571-272-6684. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Jesús D. Sotelo
Jesús D. Sotelo 1/19/06
Primary Examiner
Art unit 3617
KNX 03D69 ☺

jds
January 19, 2006